

# EXHIBIT A

## STATE OF NORTH CAROLINA

MECKLENBURG County

File No.

21-CVS-

10034

In The General Court Of Justice  
 District  Superior Court DivisionName Of Plaintiff  
TOWN OF PINEVILLE

Address

City, State, Zip

## VERSUS

Name Of Defendant(s)  
NORFOLK SOUTHERN RAILWAY COMPANY

## CIVIL SUMMONS

## □ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

## To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Norfolk Southern Railway Company  
c/o Corporation Service Company, Registered Agent  
2626 Glenwood Avenue, Suite 550  
Raleigh NC 27608

Name And Address Of Defendant 2



**IMPORTANT!** You have been sued! These papers are legal documents, DO NOT throw these papers out!  
 You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

**¡IMPORTANTE!** ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales.  
 ¡NO TIRE estos papeles!

Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

## A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Amy P. Hunt/State Bar No. 34166  
OFFIT KURMAN, P.A.  
301 South College Street, Suite 2600  
Charlotte, N.C. 28202-6006

Date Issued

Signature

Deputy CSC

Time

Signature

Assistant CSC

10:08

AM

PM

Clerk Of Superior Court

 ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Signature

Deputy CSC

Time

Assistant CSC

□ AM □ PM

Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

Date Served	Time Served	□ AM    □ PM	Name Of Defendant
-------------	-------------	--------------	-------------------

By delivering to the defendant named above a copy of the summons and complaint.

By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

Date Served	Time Served	□ AM    □ PM	Name Of Defendant
-------------	-------------	--------------	-------------------

By delivering to the defendant named above a copy of the summons and complaint.

By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

21-m-2603

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

TOWN OF PINEVILLE,

vs.

NORFOLK SOUTHERN RAILWAY  
COMPANY,

Plaintiff,

BY \_\_\_\_\_

Defendant.

**FILED** THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

21-CVS-10034

2021 JUN 25 A 10:18

MECKLENBURG CO. C.S.C.

**NOTICE OF LIS PENDENS**

Plaintiff, Town of Pineville, hereby gives this Notice of *Lis Pendens* pursuant to N.C. Gen. Stat. § 1-116, *et seq.*

1. That the above-captioned civil action was instituted by the filing of the Summons and Complaint simultaneously herewith.

2. This action includes a claim for quiet title/declaratory judgment.

3. That the property affected by this action is located in Mecklenburg County, North Carolina, with parcel ID 22105115.

4. This Notice of *Lis Pendens* is filed pursuant to N. C. Gen. Stat. § 1-116, *et seq.*, and all persons will take notice of the same.

..

This the 23<sup>rd</sup> day of June, 2021.

OFFIT KURMAN, P.A.

By: Amy P. Hunt by Robert B. McNeill, Jr.  
Amy P. Hunt/State Bar No. 34166  
Robert B. McNeill/State Bar No 13038  
*Attorneys for Plaintiff*  
301 South College Street, Suite 2600  
Charlotte, N.C. 28202-6006  
Telephone: 704/377-2500  
Facsimile: 704/372-2619  
E-mail: [amy.hunt@offitkurman.com](mailto:amy.hunt@offitkurman.com)  
E-mail: [rob.mcneill@offitkurman.com](mailto:rob.mcneill@offitkurman.com)

4824-9681-3552, v. 1

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
21-CVS- 10034

2021 JUN 25 A 10:04

TOWN OF PINEVILLE,

MECKLENBURG CO., C.S.C.

Plaintiff, BY \_\_\_\_\_

vs.

COMPLAINT

NORFOLK SOUTHERN RAILWAY  
COMPANY,

Defendant.

NOW COMES Plaintiff the Town of Pineville, complaining of Defendant Norfolk Southern Railway Company, and alleges and says as follows:

1. The Town of Pineville is a municipality in Mecklenburg County, North Carolina.
2. Upon information and belief, Norfolk Southern Railway Company ("Norfolk") is a company organized and existing under the laws of the Commonwealth of Virginia but is authorized to do business and does business in North Carolina. No monetary relief is sought from Norfolk.
3. Jurisdiction and venue are proper in this court.
4. Upon information and belief, Plaintiff owns several tracts of real property in Mecklenburg County, North Carolina. Several of these are adjacent to the railroad owned by Defendant.
5. A dispute has arisen regarding ownership of a portion of one of these tracts.
6. Upon information and belief, Norfolk may claim title to a portion of that real property with parcel ID 22105115 and shown by the Mecklenburg County tax records as owned by Plaintiff (the "Disputed Land").
7. Plaintiff obtained title to at least a portion of the Disputed Land by that deed from Ada Haynes, recorded on September 28, 2000 in Book 11604, Page 813 of the Mecklenburg County Public Registry. A true and accurate copy of the Haynes deed is attached hereto and incorporated herein by reference as Exhibit A.
8. The property described in the Haynes deed was originally granted by JW Morrow in that deed recorded on December 14, 1884 in Book 39, 334 of the Mecklenburg County Public Registry. A true and accurate copy of the 1884 Deed is attached hereto and incorporated herein.

by reference as **Exhibit B**.

9. Plaintiff is the rightful owner of at least a portion of the Disputed Land based on the deed attached as Exhibit B and the chain of title prior thereto.

10. Upon information and belief, Norfolk may be claiming title to the Disputed Land based on an 1852 deed from JW Morrow to Charlotte and South Carolina Railroad Company; however, this deed was not recorded until 1904—after the 1884 Deed—and was recorded in Book 190, Page 219 of the Mecklenburg County Public Registry. A true and accurate copy of the Railroad Deed is attached hereto and incorporated herein by reference as **Exhibit C**.

11. Because the 1884 Deed was recorded before the Railroad Deed, it takes priority, and the Town of Pineville has a superior claim of title to that portion of the Disputed Land.

12. Plaintiff disputes that the Railroad Deed conveyed the Disputed Land to any predecessor of Norfolk such that Norfolk would not have any claim to title to any portion of the Disputed Land.

13. Additionally, the Railroad Deed upon which Norfolk may be claiming title is an invalid deed, as it is illegible, and the legal description for any property purporting to be conveyed thereby cannot be determined from it.

14. Upon information and belief, it cannot be determined from the face of the Railroad Deed that it conveys any portion of the Disputed Property to Norfolk or its predecessor.

15. The Town of Pineville has exercised continuous, open, hostile, notorious possession of the Disputed Tract since approximately 2000, and, in fact, the police station is located on the Disputed Tract.

16. Pursuant to N.C. Gen. Stat. § 1-253, *et seq.*, and § 1-10, the Town of Pineville is entitled to a declaration that it owns fee simple title to the Disputed Land, free and clear of any interests of Defendant.

WHEREFORE, Plaintiff respectfully prays the Court as follows:

1. That the Court quiet title and enter a declaratory judgment determining that the Disputed Land is owned by Plaintiff, free and clear of any claims by Defendant;
2. That Plaintiff have and recover its costs in this action; and
3. For such other and further relief as the Court deems just and proper.

This the 23<sup>rd</sup> day of June, 2021.

OFFIT KURMAN, P.A.

By: Amy Hunt

Amy P. Hunt/State Bar No. 34166  
Robert B. McNeill/State Bar No. 13038  
*Attorneys for Plaintiff*  
301 South College Street, Suite 2600  
Charlotte, N.C. 28202-6006  
Telephone: 704/377-2500  
Facsimile: 704/372-2619  
E-mail: [amy.hunt@offitkurman.com](mailto:amy.hunt@offitkurman.com)  
E-mail: [rob.mcneill@offitkurman.com](mailto:rob.mcneill@offitkurman.com)

4839-3479-3452, v. 1

FOR REGISTRATION JUDITH A. GIBSON  
REGISTER OF DEEDS  
MECKLENBURG COUNTY, NC  
2000 SEP 28 02:58 PM  
BOOK 11604 PAGE 813-816 FEE \$12.00  
NC REAL ESTATE EXCISE TAX \$250.00  
INSTRUMENT # 2000140925

Excise Tax \$250.00

Recording Time, Book and Page

Tax Lot No. **Parcel Identifier No. 221-051-12**  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to Grantee  
This instrument was prepared by Horack, Talley, Pharr & Lowndes, P.A. (CDS)

Brief Description for the index


**NORTH CAROLINA GENERAL WARRANTY DEED**

THIS DEED made this day of September, 2000, by and between

GRANTOR

**Ada G. Haynes, unmarried**

GRANTEE

**Town of Pineville**

**P.O. Box 249  
Pineville, NC 28134**

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Charlotte, Mecklenburg County, North Carolina and more particularly described as follows:

Beginning at a stake in the Road or street on the West side of the Charlotte-Columbia and Augusta Railroad, 65 feet from the center of the track of said Railroad; runs with said street 99 feet more or less to W.L. Fisher's corner; thence South 53 and 1/2, West 91 and 1/2 yards with said Fisher's line to a stake; thence South 36 and 1/2 East 22 yards to an iron bar and railroad line; thence with said railroad line to the beginning, containing four thousand and seventy square yards more or less (4070).



The property hereinabove described was acquired by Grantor by instrument recorded in Book 1387 , Page 432.

A map showing the above described property is recorded in .

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

1. Lien of 2001 ad valorem taxes not yet due and payable.
2. All conditions, easements and restrictions of record.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

*Adg G. Haynes by her Attorney in Fact*  
*Willie C. James*

(SEAL)  
Adg G. Haynes by her Attorney in Fact  
Willie C. James

(SEAL)

USE BLACK INK ONLY



NORTH CAROLINA, County of mecklenburg

I, Susan U. McConnell, a Notary Public of the County and State aforesaid, certify that , Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 22nd day of September, 2000.

My commission expires: 10-8-2000

*Susan U. McConnell*  
Notary Public

The foregoing Certificate(s) of \_\_\_\_\_

is/are certified to be correct. This instrument and this certificate are duly registered at the date and in the Book and Page shown on the first page hereof.

REGISTER OF DEEDS FOR \_\_\_\_\_ COUNTY

By \_\_\_\_\_ Deputy/Assistant-Register of Deeds.

STATE OF North Carolina  
COUNTY OF Mecklenburg

I, Susan U. McConnell, a Notary Public for said County and State, do hereby certify that Willie C. James, attorney in fact for Ada G. Haynes, personally appeared before me this day, and being by me duly sworn, says that he/she executed the foregoing and annexed instrument for and in behalf of the said Ada G. Haynes, and that his/her authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of The Register of Deeds in the County of Mecklenburg, State of North Carolina on the 22nd day of September, 2000, in Book 11604, Page 813 and that this instrument was executed under and by virtue of the authority given by said instrument granting him/her power of attorney.

I do further certify that the said Willie C. James, acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Ada G. Haynes.



Susan U. McConnell  
Notary Public



JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG COUNTY  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE NC 28202

\*\*\*\*\*  
Filed For Registration: 09/28/2000 02:58 PM  
Book: RE 11604 Page: 813-816  
Document No.: 2000140925  
DEED 4 PGS \$12.00  
NC REAL ESTATE EXCISE TAX: \$250.00  
Recorder: JESSIE YOUNG  
\*\*\*\*\*

State of North Carolina, County of Mecklenburg

The foregoing certificate of SUSAN U MCCONNELL Notary is certified to be correct. This 28TH of September 2000

JUDITH A. GIBSON, REGISTER OF DEEDS BY Jessie Young  
Deputy/Assistant Register of Deeds



2000140925

State of North Carolina,  
Mecklenburg County,

The foregoing deed was duly proven by oath of the  
subscribing witness let it with this certificate  
be registered 17 day of Decr 1884

Jno P. Clegg, Clerk

State of North Carolina,  
Mecklenburg County,

This Indenture made this Fourteenth day of December A.D. 1884  
by J H Morris of Mecklenburg County and State of North  
Carolina to J J Moore wife of William Moore of Meck-  
lenburg County and State of North Carolina witnesseth  
that said J H Morris in Consideration of Two hundred  
and six Dollars to him paid by J J Moore the receipt  
of which is hereby acknowledged has bargained and  
sold and by these presents doth bargain sell and convey  
to said J J Moore and her heirs all that lot of land  
lying in Mecklenburg County State of North Carolina  
at Pineville adjoining the lands of W L & A. Rod Road  
W L Fisher and others bounded as follows viz:

Beginning at a Stake in the road or Street on the West  
side of the Rail Road Sixty four feet from the center of  
said Rail Road tract thence with said Street thirty nine  
99 feet more or less to W L Fisher's corner then \$33<sup>1/2</sup> ft 9 1/2  
yards with W L Fisher's line to a Stake thence \$36 ft 2 1/2  
yards to Barn Barn and Railroad line, thence with Railroad  
line to the beginning containing four thousand &  
seventy square yards more or less to have and to hold  
the aforesaid lot of land and all privileges and appurtenances  
thereto belonging including the right of diversion of A Morris  
farm covert to the road to J J Moore her heirs and assigns  
to her only use and behoef And the said J H Morris  
covenanteth that he is seized of said premises in fee and  
has right to convey the same in fee simple; that the same  
are free from all incumbrances and that he will  
warrant and defend the said title to the same against  
the claims of all persons whatsoever in testimony  
whereof the said J H Morris & J J Moore have  
hereunto set their hands and sealed the day and  
year above written

attest  
F. C. Morris

J H Morris Seal  
J J Moore Seal

EXHIBIT

B

tables

his funds and savings placed in the City Bank, arranged for residence, but only and after any residence building that may be erected on said lots shall cost not less than \$1000; that no building shall be erected within twenty-five feet of the shrub or arbor upon which the building stands; further, that no part of the property hereby arranged shall ever be owned or occupied as a tenement by any colored persons.

In this view, the party of the first part here  
caused it President to sign this document to effect its  
use there, and its Secretary to extend the operation of the

June 12th 1900  
Atchison  
Met. Museum  
H. F. B.  
Highland Park Co.  
by P. M. Brun

March 1, A. M. 1844. C. H. C. -  
Dear Sirs, we hope you will excuse us  
for writing to you again, but we have  
no one here to whom we can speak  
with confidence, and we have no  
one here who can speak with confidence  
and is acquainted with the business  
and pecuniary condition of said Company  
said Mr. Alexander is the Secretary of the said Company  
and on the said Alexander's copy the following statement  
and that the said Mr. Alexander agrees to have a copy  
of the said instrument in the possession of said Plaintiff  
and Corporation. Let the instrument into the office to  
be deposited.

Mr. More Deputy  
Clark Superior Court

On the twentieth day of September  
in the year of our Lord one thousand eight hundred and  
fifty two between John H. Morris of the County of Mecklenburg  
in the State of North Carolina of the one part, and the Atlantic  
and Sound Carolina Railroad Company of the other part,  
Witness, that the said John H. Morris from America  
of the sum of One Dollar is and paid by the said

**EXHIBIT**  
**c**

On the line of said Rail Road, Beginning at Station 571 of said Railroad and running NNE 9 deg to a stake at right angle to the line of said Rail Road on the East side of the Elmer, then by a line parallel to the center of said Rail Road six hundred and fifty two feet towards the Southern terminus of said Rail Road to a stake, then by a line bearing East of N 81 deg 45 min 30 sec and at right angles to the said line of said Rail Road bearing S 67 deg 52 min 30 sec.

thatsoever of the said John M. Monroe,  
Or, or And to the said Land and Tenement freely granted,  
To them and to the said persons and heirs,  
With the appurtenances unto the said Owners, and to the  
Columbia Rail Road Company and its assigns, to the proper  
use and benefit of the said Rail Road Company forever pro-  
vided the same is used for purposes of a railroad. And  
the said Jas. M. Monroe to himself and his heirs, the aforesaid  
Land and Tenement, and every part thereof, against hereby  
And his heirs and assigns, the Owners or Columbia of all

and every other person on board, whatever be the wind.  
Please and trust Captain, the firm Company and its angel  
share and will prove thence and defend by their prints.  
In testimony whereof, the said Jas. H. Morris has  
signed to his hand and affixed his seal, the day and  
year.

Chancery and Court Circulars, Standard, Star and Standard, and its angry  
chart and caricature of the Standard and Daffey, by these prints,  
the chattering tribe of the city, that Mr. M. M. was  
known to all his friends and "affectionately" as "the boy" and  
"the first able writer".

influence of  
R. R. McLean Jr.

State of North Carolina  
Mecklenburg County } October term 1852.

It is only that the extension of the written code, now called  
permitted in open country by R.R. McCall, a writer, that is now  
needed, and needs to be requested.

State of North Carolina }  
Winston-Salem, April 17 } The deed together with the Deed  
Certificate is deposited in my office in Book no. 300, in witness }  
I M. Rose, Notary

THIS JOURNAL, written the nineteenth day of March  
in the year of our Lord one thousand eight hundred and  
fifty two between Pleasanton Springs of the County of Mecklen-  
burg in the State of North Carolina of the one part and the  
Charlotte and Concord Carolina Railroad Company of the

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

TOWN OF PINEVILLE,

Plaintiff,

vs.

NORFOLK SOUTHERN RAILWAY  
COMPANY,

Defendant.

FILED  
IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2021 JUL -6 P 2:09 21-CVS-10034

MECKLENBURG CO., C.S.C.

BY

**AFFIDAVIT OF SERVICE**

Amy Hunt, first being duly sworn, deposes and says that:

1. She is an attorney of record for the plaintiff, Town of Pineville, in the above-entitled action, and she makes this Affidavit pursuant to Rule 4(j2) of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 1-75.10(4).

2. On June 25, 2021, a Civil Summons, Notice of Lis Pendens, and Complaint in this action were deposited in the United States Post Office for mailing by certified mail, return receipt requested, addressed to Defendant Norfolk Southern Railway Company, c/o Corporation Service Company, Registered Agent, at 2626 Glenwood Avenue, Suite 550, Raleigh, NC 27608.

3. The Post Office delivered the aforesaid papers June 28, 2021, at the address indicated to Heather Hughes, a person presumed to be authorized to accept service and who signed the return receipt. The electronic delivery receipt is attached as **Exhibit A**.

This the 10<sup>th</sup> day of July, 2021.

OFFIT KURMAN, P.A.

By: Amy Hunt

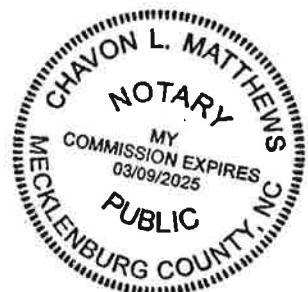
Amy P. Hunt/State Bar No. 34166  
*Attorneys for Plaintiff*  
301 South College Street, Suite 2600  
Charlotte, North Carolina 28202-6006  
Telephone: 704/377-2500  
Facsimile: 704/372-2619  
E-Mail: [Amy.Hunt@OffitKurman.com](mailto:Amy.Hunt@OffitKurman.com)

SIGNED and SWORN TO (or AFFIRMED)  
and subscribed before me this day by Amy Hunt.

Date: July 4, 2021

Chavon L. Matthews

Chavon L. Matthews, Notary Public  
My commission expires: March 9, 2025



**CERTIFICATE OF SERVICE**

I, Amy Hunt, do hereby certify, that on this date that service of the foregoing **Affidavit of Service** was this date had upon the party herein by depositing a copy of same in the United States Mail, postage prepaid, addressed as follows:

Norfolk Southern Railway Company  
c/o Corporation Service Company, Registered Agent  
2626 Glenwood Avenue, Suite 550  
Raleigh, NC 27608

Dated this 16<sup>th</sup> day of July, 2021.

OFFIT KURMAN, P.A.

  
\_\_\_\_\_  
Amy Hunt

4833-0719-8960, v. 1